

REMARKS

In the non-final Office Action, the Examiner rejects claims 1, 11-14, 16-21, and 23-30 under 35 U.S.C. § 103(a) as unpatentable over SRINIVASAN et al. (U.S. Patent Application Publication No. 2002/0042738) in view of MASON et al. (U.S. Patent Application Publication No. 2002/0161648); and rejects claims 2-10, 15, 22, and 31 under 35 U.S.C. § 103(a) as unpatentable over SRINIVASAN et al. in view of MASON et al., further in view of MESSER (U.S. Patent Application Publication No. 2004/0254813), and still further in view of ISHIKAWA (U.S. Patent Application Publication No. 2001/0037314). Applicants respectfully traverse these rejections.¹

By way of the present amendment, Applicants amend claims 1, 2, 10-12, 14, 16-21, 24-26, 29, and 31 to improve form and not to overcome the references of record. No new matter has been added by way of the present amendment. Claims 1-31 remain pending.

Rejection under 35 U.S.C. § 103(a) based on SRINIVASAN et al. and MASON et al.

Claims 1, 11-14, 16-21, and 23-30 stand rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over SRINIVASAN et al. in view of MASON et al. Applicants respectfully traverse this rejection.

Independent claim 1 is directed to a method that includes identifying real users visiting a web site and determining an occurrence of spamming on the web site based at

¹ As Applicants' remarks with respect to the Examiner's rejections are sufficient to overcome these rejections, Applicants' silence as to assertions by the Examiner in the Office Action or certain requirements that may be applicable to such rejections (e.g., whether a reference constitutes prior art, motivation to combine references, assertions as to dependent claims, etc.) is not a concession by Applicants that such assertions are accurate or such requirements have been met, and Applicants reserve the right to analyze and dispute such assertions/requirements in the future.

least in part on the identified real users. SRINIVASAN et al. and MASON et al., whether taken alone or in any reasonable combination, do not disclose or suggest this combination of features.

For example, SRINIVASAN et al. and MASON et al. do not disclose or suggest identifying real users visiting a web site. The Examiner relies on paragraph 0049 of SRINIVASAN et al. as allegedly disclosing this feature (Office Action, p. 2). Applicants respectfully disagree with the Examiner's interpretation of SRINIVASAN et al.

At paragraph 0049, SRINIVASAN et al. discloses:

Once the customer has accessed the eCommerce website, he may receive information such as banner advertisement or similar ad content from the website. The request sent by the browser might include information specific to the customer using the browser. Such information may include, for example, information derived from user logins, cookies stored on the user's machine and through the user's IP address. In addition, the customer may be presented with advertisements, and whether the customer clicks on any of the advertisements may be passed from the browser to the website with the request.

This section of SRINIVASAN et al. discloses that a request sent by a browser (which appears to be a request for a web page) might include information that is specific to the customer, such as information derived from user logins, cookies stored on the user's machine and through the user's IP address. Neither this section of SRINIVASAN et al. nor any other section of SRINIVASAN et al. discloses or suggests that this customer-specific information is used for identifying real users visiting a web site, as would be required by claim 1 based on the Examiner's interpretation of SRINIVASAN et al.

Applicants note that SRINIVASAN et al. is directed to a system that conducts experiments to determine the effectiveness of Internet advertising (see, for example,

paragraph 0025). SRINIVASAN et al. in no way relates to identifying real users visiting a web site, as recited in claim 1.

The disclosure of MASON et al. does not remedy the above deficiency in the disclosure of SRINIVASAN et al.

SRINIVASAN et al. and MASON et al. do not further disclose or suggest determining an occurrence of spamming on a web site based at least in part on identified real users visiting the web site. The Examiner admits that SRINIVASAN et al. does not disclose this feature and relies on paragraph 0029 of MASON et al. as allegedly disclosing this feature (Office Action, pp. 2-3). Applicants respectfully disagree with the Examiner's interpretation of MASON et al.

At paragraph 0029, MASON et al. discloses:

With reference to the two columns on the left side of the drawing, a statistical analysis package monitors and reports the total amount of viewer traffic that an online newspaper website receives. The present invention provides the ability to monitor the success of particular advertising campaign in real time and facilitates the modification of an advertising campaign either automatically or with user intervention. For example, an advertising campaign can start with three different original ads which are reconfigured and then placed on a wide number of websites. By monitoring the number of click-throughs on each of the ads, a more successful derivative advertisement link, i.e., one which receives a greater number of click-throughs, can be substituted for the less successful banners. The computing devices which are used to run and monitor the methods of the present invention can be automatically programmed to substitute a more successful banner for a less successful banner according to one or more pre-determined criteria, e.g., if the number of click-throughs is different by a pre-determined percentage. For example, if the derivative advertisement links from one original ad are receiving 20% more click-throughs than the derivative advertisement links created from a second original ad, then some or all of the placements of the second original ad can be automatically replaced by the more successful ad. Alternatively, other criteria and parameters used in tailoring an advertising campaign can also be adjusted during the campaign automatically or using

user intervention. For example, if it is found that a soup advertisement is receiving more click-throughs in the late afternoon and ads for a financial services firm are receiving more click-throughs early in the morning, then the placement of those particular ads can be modified in order to maximize the number of click-throughs for the advertisers. The present invention provides statistics on each derivative advertisement link, each URL and can combine and provide cumulative statistics. The statistics provided preferably comprise at least the number of hits per image per online newspaper website and the number of click-throughs per image per newspaper website.

This section of MASON et al. discloses that computing devices can substitute a more successful advertising banner for a less successful advertising banner according to one or more predetermined criteria, such as the number of click-throughs. This section of MASON et al. does not disclose or suggest determining an occurrence of spamming on a web site based at least in part on identified real users visiting the web site, as recited in claim 1. In fact, this section of MASON et al. in no way relates to this feature of claim 1.

Applicants note that MASON et al. is directed to a system that allows for online advertisements to be tracked, audited, and/or modified at any time during an advertising campaign (Abstract). MASON et al. discloses the ability to determine the total number of times that a derivative advertisement is accessed by an online accessing device to give an advertiser a true representation of the success of an advertising campaign and to discourage potential fraudulent practices (paragraph 0022). MASON et al. does not disclose or suggest, however, determining an occurrence of spamming on a web site based at least in part on identified real users visiting the web site, as recited in claim 1.

For at least the foregoing reasons, Applicants submit that claim 1 is patentable over SRINIVASAN et al. and MASON et al., whether taken alone or in any reasonable combination. Thus, Applicants respectfully request that the rejection of claim 1 under 35

U.S.C. § 103(a) based on SRINIVASAN et al. and MASON et al. be reconsidered and withdrawn.

Claims 11-14 depend from claim 1. Therefore, these claims are patentable over SRINIVASAN et al. and MASON et al., whether taken alone or in any reasonable combination, for at least the reasons given above with respect to claim 1. Moreover, these claims recite additional features not disclosed or suggested by SRINIVASAN et al. and MASON et al.

For example, claim 12 recites that the web site includes at least one advertisement, and where the determining an occurrence of spamming includes determining a click rate of the at least one advertisement for the identified real users, and determining that the at least one advertisement has been spammed when the click rate of users visiting the web site exceeds the determined click rate for the identified real users. SRINIVASAN et al. and MASON et al., whether taken alone or in any reasonable combination, do not disclose or suggest this combination of features.

For example, SRINIVASAN et al. and MASON et al. do not disclose or suggest determining that the at least one advertisement has been spammed when the click rate of users visiting the web site exceeds the determined click rate for the identified real users. The Examiner relies on SRINIVASAN et al.'s minimum effectiveness threshold in Table 1 as allegedly corresponding to this feature of claim 12 (Office Action, p. 4). Applicants respectfully disagree with the Examiner's interpretation of SRINIVASAN et al.

Table 1 of SRINIVASAN et al. includes the results of a first iteration of an experiment that was conducted (paragraph 0116). While this table includes a click rate

percentage for different advertisements, this table of SRINIVASAN et al. in no way discloses or suggests determining that the at least one advertisement has been spammed when the click rate of users visiting the web site exceeds the determined click rate for the identified real users, as recited in claim 12. In fact, the entire SRINIVASAN et al. disclosure does not relate to determining spamming of advertisements.

The disclosure of MASON et al. does not remedy the above deficiency in the disclosure of SRINIVASAN et al.

For at least these additional reasons, Applicants submit that claim 12 is patentable over SRINIVASAN et al. and MASON et al., whether taken alone or in any reasonable combination. Thus, Applicants respectfully request that the rejection of claim 12 under 35 U.S.C. § 103(a) based on SRINIVASAN et al. and MASON et al. be reconsidered and withdrawn.

Claim 14 recites that the web site includes at least one advertisement. Claim 14 further recites that the identifying real users visiting a web site includes determining a percentage of a number of users visiting the web site in a time period that are real users, and where the determining an occurrence of spamming includes estimating a percentage of real users selecting the at least one advertisement during the time period to be approximately the percentage of real users visiting the web site during the time period, and determining that the at least one advertisement has been spammed when an actual percentage of real users selecting the at least one advertisement during the time period is lower than the estimated percentage of real users selecting the at least one advertisement

during the time period. SRINIVASAN et al. and MASON et al., whether taken alone or in any reasonable combination, do not disclose or suggest this combination of features.

For example, SRINIVASAN et al. and MASON et al. do not disclose or suggest determining that the at least one advertisement has been spammed when an actual percentage of real users selecting the at least one advertisement during the time period is lower than the estimated percentage of real users selecting the at least one advertisement during the time period. The Examiner appears to rely on Table 1 of SRINIVASAN et al. and paragraph 0029 of MASON et al. for as allegedly disclosing the above feature of claim 14 (Office Action, p. 5). Applicants respectfully disagree with the Examiner's interpretation of SRINIVASAN et al. and MASON et al.

Table 1 of SRINIVASAN et al. includes the results of a first iteration of an experiment that was conducted (paragraph 0116). The table stores information identifying an advertisement, the prior distribution of the advertisement, the click rate (as a percentage), and the posterior distribution of the advertisement. This table of SRINIVASAN et al. in no way relates to determining that the at least one advertisement has been spammed when an actual percentage of real users selecting the at least one advertisement during the time period is lower than the estimated percentage of real users selecting the at least one advertisement during the time period, as recited in claim 14. In fact, the entire SRINIVASAN et al. disclosure does not relate to determining spamming of advertisements.

Paragraph 0029 of MASON et al. is reproduced above. This section of MASON et al. discloses that computing devices can substitute a more successful advertising

banner for a less successful advertising banner according to one or more predetermined criteria, such as the number of click-throughs. This section of MASON et al. in no way discloses or suggests determining that the at least one advertisement has been spammed when an actual percentage of real users selecting the at least one advertisement during the time period is lower than the estimated percentage of real users selecting the at least one advertisement during the time period, as recited in claim 14. In fact, this section of MASON et al. does not even relate to determining whether an advertisement has been spammed.

For at least these additional reasons, Applicants submit that claim 14 is patentable over SRINIVASAN et al. and MASON et al., whether taken alone or in any reasonable combination. Thus, Applicants respectfully request that the rejection of claim 14 under 35 U.S.C. § 103(a) based on SRINIVASAN et al. and MASON et al. be reconsidered and withdrawn.

Independent claims 16-18 recite features similar to (yet possibly of different scope than) features described above with respect to claim 1. Therefore, Applicants submit that claims 16-18 are patentable over SRINIVASAN et al. and MASON et al., whether taken alone or in any reasonable combination, for at least the reasons given above with respect to claim 1. Applicants respectfully request that the rejection of claim 16-18 under 35 U.S.C. § 103(a) based on SRINIVASAN et al. and MASON et al. be reconsidered and withdrawn.

Independent claims 19, 29, and 30 recite features similar to (yet possibly of different scope than) features described above with respect to claims 1 and 12.

Therefore, Applicants submit that claims 19, 29, and 30 are patentable over SRINIVASAN et al. and MASON et al., whether taken alone or in any reasonable combination, for at least reasons similar to reasons given above with respect to claims 1 and 12. Applicants respectfully request that the rejection of claim 19, 29, and 30 under 35 U.S.C. § 103(a) based on SRINIVASAN et al. and MASON et al. be reconsidered and withdrawn.

Claims 20, 21, and 23-28 depend from claim 19. Therefore, these claims are patentable over SRINIVASAN et al. and MASON et al., whether taken alone or in any reasonable combination, for at least the reasons given above with respect to claim 19.

*Rejection under 35 U.S.C. § 103(a) based on SRINIVASAN et al.,
MASON et al., MESSER, and ISHIKAWA*

Claims 2-10, 15, 22, and 31 stand rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over SRINIVASAN et al. in view of MASON et al., and further in view of MESSER, and still further in view of ISHIKAWA. Applicants respectfully traverse this rejection.

Claims 2-10 and 15 depend from claim 1. While not agreeing with the Examiner's allegations, Applicants submit that the disclosures of MESSER and ISHIKAWA do not remedy the deficiencies in the disclosures of SRINIVASAN et al. and MASON et al. set forth above with respect to claim 1. Therefore, these claims are patentable over SRINIVASAN et al., MASON et al., MESSER, and ISHIKAWA, whether taken alone or in any reasonable combination, for at least the reasons given above with respect to claim 1. Moreover, these claims are patentable over

SRINIVASAN et al., MASON et al., MESSER, and ISHIKAWA for reasons of their own.

For example, claim 3 recites that identifying real users visiting a web site includes tracking activities of users visiting the web site and identifying the real users based at least in part on the tracked activities, where the tracking activities includes determining whether the users load images. The Examiner appears to admit that SRINIVASAN et al., MASON et al., and MESSER do not disclose this feature and relies on paragraph 0015 of ISHIKAWA for allegedly disclosing this feature (Office Action, p. 14). Applicants respectfully disagree with the Examiner's interpretation of ISHIKAWA.

At paragraph 0015, ISHIKAWA discloses:

When an advertising link is loaded onto a user's computer, a confirmation code is generated. If the user chooses to access the advertised materials, for example, the web page being advertised, the user clicks on the advertising link and is transmitted to the merchant's web site. As the user is transmitted to the merchant's web page, current user information generated in accordance with standard transmission protocols and the confirmation code are also transmitted.

This section of ISHIKAWA discloses that a confirmation code is generated when an advertising link is loaded onto a user's computer. This section of ISHIKAWA does not relate to identifying real users visiting a web site. Moreover, this section of ISHIKAWA does not disclose or suggest determining whether users load images, as recited in claim 3. ISHIKAWA's disclosure of an advertising link being loaded onto a user's computer is not equivalent to determining whether users load images, as recited in claim 3.

For at least these additional reasons, Applicants submit that claim 3 is patentable over SRINIVASAN et al., MASON et al., MESSER, and ISHIKAWA, whether taken

alone or in any reasonable combination. Thus, Applicants respectfully request that the rejection of claim 3 under 35 U.S.C. § 103(a) based on SRINIVASAN et al., MASON et al., MESSER, and ISHIKAWA be reconsidered and withdrawn.

Claim 4 recites that identifying real users visiting a web site includes tracking activities of users visiting the web site and identifying the real users based at least in part on the tracked activities, where the tracking activities includes determining whether the users have javascript turned on. The Examiner appears to admit that SRINIVASAN et al. and MASON et al. do not disclose this feature and relies on paragraph 0037 of MESSER for allegedly disclosing this feature (Office Action, p. 14). Applicants respectfully disagree with the Examiner's interpretation of MESSER.

At paragraph 0037, MESSER discloses:

At Test 230, the scanned page is examined to determine if Javascript exists within the page content. Javascript may be used to produce a click-loop process, wherein the promotion linking codes are repeatedly triggered by the Javascript commands. This would create the illusion of many clicks on the promotion by users. However, these clicks would have telltale signs, such as originating from the same IP address, identical patterns, time intervals, and the like. A positive detection branches logic to the next Test, 240 for detecting the existence of the Javascript in association with the promotion vehicle, e.g., a banner ad. If this test is also positive, the system generates a report, positively identifying the page as a potential source of click fraud, block 250. Logic then continues at 260.

This section of MESSER discloses determining if javascript exists within a web page.

This section of MESSER does not relate to identifying real users visiting a web site.

Moreover, this section of MESSER does not disclose or suggest determining whether users have javascript turned on, as recited in claim 4. MESSER's disclosure of determining if javascript exists within a web page is not equivalent to tracking activities

of users visiting the web site, which includes determining whether the users have javascript turned on, as recited in claim 4.

For at least these additional reasons, Applicants submit that claim 4 is patentable over SRINIVASAN et al., MASON et al., MESSER, and ISHIKAWA, whether taken alone or in any reasonable combination. Thus, Applicants respectfully request that the rejection of claim 4 under 35 U.S.C. § 103(a) based on SRINIVASAN et al., MASON et al., MESSER, and ISHIKAWA be reconsidered and withdrawn.

Claim 5 recites that identifying real users visiting a web site includes tracking activities of users visiting the web site and identifying the real users based at least in part on the tracked activities, where the tracking activities includes determining a type of browser used by the users. The Examiner appears to rely SRINIVASAN et al.'s disclosure of a cookie as allegedly disclosing this feature (Office Action, p. 14). Applicants respectfully disagree with the Examiner's interpretation of SRINIVASAN et al.

SRINIVASAN et al. only discloses a cookie in paragraph 0049, which is reproduced above. This section of SRINIVASAN et al. discloses that a request sent by a browser (which appears to be a request for a web page) might include information that is specific to the customer, such as information derived from user logins, cookies stored on the user's machine and through the user's IP address. SRINIVASAN et al.'s disclosure of sending cookies stored on a user's machine with a request for a web page is in no way equivalent to tracking activities of users visiting the web site, which includes determining a type of browser used by the users, as recited in claim 5.

If this rejection is maintained, Applicants respectfully request that the Examiner explain how the above section of SRINIVASAN et al. can reasonably be construed as disclosing tracking activities of users visiting the web site, which includes determining a type of browser used by the users, as recited in claim 5.

The disclosures of MASON et al., MESSER, and ISHIKAWA do not remedy the above deficiency in the disclosure of SRINIVASAN et al.

For at least these additional reasons, Applicants submit that claim 5 is patentable over SRINIVASAN et al., MASON et al., MESSER, and ISHIKAWA, whether taken alone or in any reasonable combination. Thus, Applicants respectfully request that the rejection of claim 5 under 35 U.S.C. § 103(a) based on SRINIVASAN et al., MASON et al., MESSER, and ISHIKAWA be reconsidered and withdrawn.

Claim 6 recites that identifying real users visiting a web site includes tracking activities of users visiting the web site and identifying the real users based at least in part on the tracked activities, where the tracking activities includes determining an interval at which each of the users visits the web site. The Examiner relies on paragraph 0096 of SRINIVASAN et al. for allegedly disclosing this feature (Office Action, p. 14).

Applicants respectfully disagree with the Examiner's interpretation of SRINIVASAN et al.

At paragraph 0096, SRINIVASAN et al. discloses:

The number of website visitors to sample for each advertisement is also determined. This may be an absolute number of visitors to be randomly presented with each advertisement. Alternatively, a time interval over which testing is to be performed may be defined, and the visitors who visit the website during that period become the population. Appropriate random samples drawn from this population will be exposed to different ads.

This paragraph of SRINIVASAN et al. discloses determining the number of visitors to sample an advertisement. This disclosure of SRINIVASAN et al. is in no way equivalent to tracking activities of users visiting the web site, which includes determining an interval at which each of the users visits the web site, as recited in claim 6.

If this rejection is maintained, Applicants respectfully request that the Examiner explain how the above section of SRINIVASAN et al. can reasonably be construed as disclosing tracking activities of users visiting the web site, which includes determining an interval at which each of the users visits the web site, as recited in claim 6.

The disclosures of MASON et al., MESSER, and ISHIKAWA do not remedy the above deficiency in the disclosure of SRINIVASAN et al.

For at least these additional reasons, Applicants submit that claim 6 is patentable over SRINIVASAN et al., MASON et al., MESSER, and ISHIKAWA, whether taken alone or in any reasonable combination. Thus, Applicants respectfully request that the rejection of claim 6 under 35 U.S.C. § 103(a) based on SRINIVASAN et al., MASON et al., MESSER, and ISHIKAWA be reconsidered and withdrawn.

Claim 22 depends from claim 19. While not agreeing with the Examiner's allegations with respect to claim 22, Applicants submit that the disclosures of MESSER and ISHIKAWA do not remedy the deficiencies in the disclosures of SRINIVASAN et al. and MASON et al. set forth above with respect to claim 19. Therefore, this claim is patentable over SRINIVASAN et al., MASON et al., MESSER, and ISHIKAWA, whether taken alone or in any reasonable combination, for at least the reasons given above with respect to claim 19.

Independent claim 31 is directed to a method that includes tracking activities of users visiting the web site, where the tracking includes determining, for each user, at least one of whether the user loads images, an age of a cookie associated with each user, whether the user has javascript turned on, a type of browser used by the user, or an interval at which the user visits the web site; and identifying real users based at least in part on the tracked activities. SRINIVASAN et al., MASON et al., MESSER, and ISHIKAWA, whether taken alone or in any reasonable combination, do not disclose or suggest this combination of features.

For example, SRINIVASAN et al., MASON et al., MESSER, and ISHIKAWA do not disclose or suggest identifying real users based at least in part on tracking activities of users, where the tracking activities includes determining, for each user, at least one of whether the user loads images, an age of a cookie associated with each user, whether the user has javascript turned on, a type of browser used by the user, or an interval at which the user visits the web site, for at least reasons similar to reasons given above with respect to claims 1-6.

For at least these reasons claim 31 is patentable over SRINIVASAN et al., MASON et al., MESSER, and ISHIKAWA, whether taken alone or in any reasonable combination. Thus, Applicants respectfully request that the rejection of claim 31 under 35 U.S.C. § 103(a) based on SRINIVASAN et al., MASON et al., MESSER, and ISHIKAWA be reconsidered and withdrawn.

In view of the foregoing remarks, Applicants respectfully request the Examiner's reconsideration of this application, and the timely allowance of the pending claims.

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 50-1070 and please credit any excess fees to such deposit account.

Respectfully submitted,

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